

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
PARIS DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JUL 31 1997

BY DAVID J. [Signature] CLERK
DEPUTY

LINDA FREW, ET AL.,
Plaintiffs,

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V.

CIVIL ACTION NO. 3:93CV65

MICHAEL McKINNEY, ET AL.
Defendants.

DEFENDANTS' MONITORING REPORT, JULY 1997

TO THE HONORABLE JUDGE JUSTICE:

Pursuant to Paragraph 306 of the Consent Decree, Defendants file their Monitoring Report,
attached as Exhibit A, and incorporated by reference.

Respectfully submitted,

DAN MORALES
Attorney General of Texas

JORGE VEGA
First Assistant Attorney General

LAQUITA A. HAMILTON
Deputy Attorney General for Litigation

TONI HUNTER
Chief, General Litigation Division

[Signature]
EDWIN N. HORNE

Texas Bar No. 10008000
Assistant Attorney General
General Litigation Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
(512)463-2120
(512)320-0667 (Telefax)

ATTORNEYS FOR DEFENDANTS

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CERTIFICATE OF SERVICE

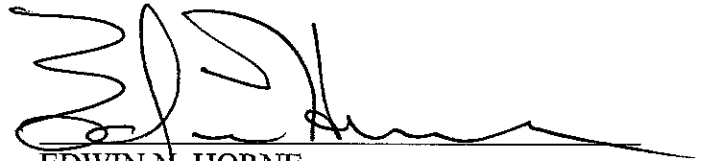
I certify that a true and correct copy of the foregoing Defendants' Monitoring Report, July 1997, has been served on this the 30th day of July, 1997, on the following counsel of record:

Susan F. Zinn
Attorney at Law
P.O. Box 15126
San Antonio, Texas 78212

(VIA FIRST CLASS MAIL)

Jane Swanson
Law Offices of A. Rodman Johnson
2202 Timberloch Place, Suite 112
The Woodlands, Texas 77380

(VIA FIRST CLASS MAIL)

A handwritten signature in black ink, appearing to read 'Edwin N. Horne', written over a horizontal line.

EDWIN N. HORNE
Assistant Attorney General

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1997 LAWSUIT ACTION ITEMS
Updated July 31, 1997

Action	Deadline	Status
1. This paragraph does not preclude the development of new Medicaid card formats in the future as contemplated by Paragraph #304. #18		<p>Qualitative testing of the MEDICAID ID form (s) has been completed. Client interviews were conducted at 13 rural and urban Department of Human Service and WIC offices in the state. Approximately 103 interviews focused on the managed care MEDICAID ID form and 83 interviews on the non-managed care or fee for service MEDICAID ID form. Focus group research (5 with providers and 4 with front line provider staff) plus interviews with providers and front line provider staff were also conducted.</p> <p>The first draft of a report will be reviewed by TDH administration in late August 1997 and provided to Plaintiffs' attorney by the end of September 1997.</p>
2. Defendants will develop and implement a method that reports the number and percent of recipients who receive medical and or dental check ups after receipt of oral outreach. # 61	By September 1, 1996	<p>On March 10, 1997, the Plaintiffs were provided with a very detailed report (including corrective actions and report options) about the Department's problems with the data entry system for these outreach reports.</p> <p>On May 7, 1997 the Plaintiffs notified the Defendants of the report options they preferred and were furnished with the requested data. In accordance with the schedule provided the plaintiffs on July 8, 1997, reports for TDH Regions 1,4,5,7,9,and 10 for the month of March 1997 are attached.</p> <p>Exhibit A</p>

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EXHIBIT

A

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Action	Deadline	Status
<p>4. Defendants will conduct an initiative to orally inform pharmacists about EPSDT's coverage. # 130-3</p>		<p>A four part pharmacists training plan providing for multiple learning opportunities and methodologies was approved by the Plaintiffs and is completed as follows:</p> <p>Part 1: Distributing informational handouts to all pharmacies enrolled in the Vendor Drug Program. A supply of the handout was mailed to each Regional TDH pharmacist to be used at the annual visit with each enrolled Vendor Drug Program Pharmacy. Each THSteps Regional Manager received a supply of the handout to use in responding to general inquiries.</p> <p>Part 2: Providing EPSDT-CCP pharmacy information on a TDH Web page. Effective July 1997 the TDH web site incorporated a Medicaid CCP flyer, listing of CCP procedure codes with prices for pharmacies, and a sample billing form .</p> <p>Part 3: Participating in the annual Texas Pharmaceutical Association meeting. An EPSDT/CCP booth was set up at the meeting and open during exhibit hours on July 17 and July 18, 1997. The state office program specialist on EPSDT\CCP services manned the booth and was available to provide both oral and written information to pharmacists on the EPSDT\CCP program.</p> <p>Part 4: The Defendants are still evaluating the possibility of developing and producing a 15-20 video for pharmacists. (The priority at this time is THSteps Program training for HMOs prior to the Harris Service Delivery Area roll-out in response to Consent Decree #194)</p>

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Action	Deadline	Status
<p>5. Effort to recruit family planning clinics to provide EPSDT medical check ups will be coordinated with TDH's family planning. #139</p>		<p>The attached draft "Combined THSteps/Family Planning Visits" policy has been developed to facilitate the recruitment of family planning entities to provide THSteps check-ups. It is being reviewed internally.</p> <p>Exhibit B</p>
<p>6. TDH will recruit Independent School Districts to provide EPSDT medical and dental check ups and coordinate other needed services. TDH will emphasize the development of centers to address the needs of pregnant teenagers in school districts that are interested in developing this resource for their students. #141</p> <p>7. TDH will cooperate with HeadStart programs to ensure that HeadStart students who are EPSDT recipients have access to EPSDT services. #142</p>		<p>In October 1997 the Plaintiffs will be furnished with a comprehensive report from each of the 8 TDH regions describing all their ISD and HeadStart activities in FY '97.</p>

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Action	Deadline	Status
8. Defendants will conduct outreach to families with EPSDT recipient infants. (Baby Bottle Tooth Decay). # 148	Beginning January, 1996	On April 14, 1997, the Plaintiffs were furnished with the THSteps plan for meeting the requirements in #148. Some minor changes have been made in the plan description (attached) to reflect the fact that this initiative includes but is not limited to Baby Bottle Tooth Decay. The plan and activities have not been changed and implementation is proceeding according to schedule. Exhibit C
9. Defendants will maintain reports of the number and percent of participating dentists who see 0-29, 30-99 and 100 + EPSDT recipients every 3 months. # 165	Beginning October 31, 1995	The Plaintiffs have been furnished with a statewide dental provider participation report for FY 96 as well as quarterly reports for all of FY 96 and the first quarter of FY 97. The second quarter report for FY 97 is being prepared and should be available to the Plaintiffs in August 1997.
10. Defendants will prepare a report of the number and percent of recipients who receive 1 dental check up per year and 2 dental check ups per year. # 171	By September 30, 1996	On February 5, 1997 the Plaintiffs rejected the Defendants' report provided in response to Consent Decree # 171. The Defendants' alternative methodology proposal for meeting this requirement was also rejected on July 11, 1997. The report is pending resolution of this issue between the parties. Exhibit D
11. Parties will agree on expected increase in the number and percent of recipients who receive 1 and 2 dental check ups/year. # 172	By December 1, 1996	Deferred, pending receipt of the reports referenced in Item # 10

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Action	Deadline	Status
12. Defendants will arrange for a study to assess the dental health of the EPSDT population. The study will evaluate improvements in the number and percent of recipients who 1) have no cavities, 2) have no untreated cavities and 3) require hospital treatment for dental problems. Subject to Plaintiffs approval. # 174	By March 1, 1996	<p>The Department's first Request for Proposal (RFP) developed in preparation for contracting for this study was rejected by the Plaintiffs.</p> <p>A new RFP was developed and published in the June 3, 1997 TEXAS REGISTER requesting proposals by July 25, 1997 for two separate dental health assessments of the THSteps population.</p> <p>Exhibit E</p>

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Action	Deadline	Status
<p>13. Defendants will begin migrant program in Lower Rio Grande Valley. Later, they will expand appropriate outreach efforts for farm worker families to other areas of the state as needed. # 180</p> <p>Defendants will make efforts to help farm worker families to utilize EPSDT benefits promptly upon return to Texas. Efforts will include door to door outreach in communities where farm workers live. # 181</p> <p>When outreach units receive information about the identity of migrant farm worker recipients who request outreach services, outreach units will give priority status to those recipients. They will provide outreach as quickly as possible. Outreach information will encourage this group of recipients to receive as many needed services as possible before they move on again. # 183</p>	Beginning in 1995	A formalized plan for meeting the requirements in Paragraphs 180,181, and 183 was previously furnished to the Plaintiffs. A State office program integrator was hired July 1, 1997, and will begin working with TDH regional staff in September 1997 to assure full coordination and implementation of the plan.

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Action	Deadline	Status
14. TDH will assure by various means that managed care organizations arrange appropriate training for all health care providers and their staff who serve EPSDT recipients as authorized by SB 601. # 194		<p>The Plaintiffs were furnished with a new "Education Plan for All Texas Health Steps Providers and Their Staff in Medicaid Managed Care Service Areas" and have been invited to attend the HMO training sessions being held prior to the Harris Service Area roll-out.</p> <p>Exhibits F</p>
15. Efforts to inform teens and their parents about EPSDT will address the complex privacy and consent issues involved. # 207		<p>Defendants continue to work on the issue of teen/privacy consent. Extensive research has been done by TDH program and legal staff on the Federal and State laws regarding confidentiality and minors. Under development are three flyers: one each for teens, for parents/guardians and for providers. Upon completion, the flyers will be sent to the Plaintiffs for review and comment. After review, the texts of the flyers will be written for a lower literacy level and translated into Spanish.</p>

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Action	Deadline	Status
16. TDH and DPRS MOU will establish a method to report the number and percent of EPSDT recipients under the supervision of DPRS who receive all of their medical and dental check ups when due. # 212-3		The Defendants have had ongoing meetings with DPRS in an effort to meet the specified reporting requirements. As indicated to the Plaintiffs at the June 1997 negotiation meeting, DPRS is implementing a new automation system and expects to be capable of generating the required reports by January 1998.
17. Conduct annual assessments of the effectiveness of the transportation program. # 223 Defendants method for evaluating the transportation system will be subject to Plaintiffs approval. # 227	By March 1996 each year.	On July 7, 1996, the Plaintiffs were sent copies of the seven proposals received in response to the RFPs (published in the TEXAS REGISTER) to evaluate the Medical Transportation Program. Defendants have agreed to delay negotiations with bidders pending receipt of the Plaintiffs comments in August 1997. Exhibit G
18. Toll free numbers for EPSDT recipients will be staffed sufficiently by well- trained personnel. No calls may be "answered" by a tape recording during working hours except in unusual circumstances. # 247		The results of the client 1-800 number(s) Quality Assurance Surveys and Automatic Call Distribution data for the months of February, March, April and May 1997 have been sent to the Plaintiffs. There continues to be an improvement in services. Defendants are conducting an analysis of the four reports. The results of that analysis and a corrective action plan will be forwarded to the Plaintiffs in late August 1997. Exhibit H

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Action	Deadline	Status
<p>19. Parties will complete a case management plan for the EPSDT program. # 264</p> <p>Defendants will finalize medical case management regulations and implement the program. # 270</p>	<p>By January 31, 1996</p> <p>By September 1, 1996</p>	<p>Proposed case management rules were published in the TEXAS REGISTER on June 13, 1997. The written comment period is 60 days and two public hearings have been held to solicit as much public input as possible. Written comments and transcripts of the public hearings have and will continue to be shared with the Plaintiffs on a regular basis.</p> <p>Exhibit I</p>
<p>20. Defendants will conduct 2 analyses. They will measure the percent of EPSDT recipients who receive medical check ups and 2 dental check ups/year in each county or county cluster. # 277</p>	<p>Beginning in 1997</p>	<p>The statewide analysis will contain this information. See item # 21</p>
<p>21. Complete a statewide analysis every year by March 30, identifying the counties or county clusters lagging behind the state average for medical check-ups beginning in 1996, and medical and/or dental check-ups beginning in 1997. # 280</p>	<p>Beginning in 1997</p>	<p>The 1996 report was completed and previously furnished to the Plaintiffs (FY 95 data). The Department's proposed methodology for completing the FY 1997 report was rejected by the Plaintiffs on July 11, 1997. Completion of the report is pending resolution of this issue between the parties.</p> <p>Exhibit J</p>

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Action	Deadline	Status
22. Defendants will report EPSDT participation statistics to the Federal Government on the HCFA form 416. # 283	Every year from 1996-1999	<p>The Plaintiffs were advised that the HCFA 416 submission to the Federal government was delayed pending receipt of all the necessary medical check-up data and the resolution of identified data discrepancies. The HCFA 416 report is now completed (see attached). The letter transmitting the report to the Health Care Financing Administration (HCFA) has not been signed by the State Medicaid Director. The Plaintiffs will be advised in the event that any substantive alterations are made to the copy of the report submitted to HCFA.</p> <p>Exhibit K</p>
23. Defendants will also report to Plaintiffs the number and percent of recipients who receive all of their scheduled medical and dental check ups. # 284	Defendants will provide these reports to the Plaintiffs no later than Dec. 31 of each year.	<p>The Defendant's proposal for meeting Paragraph 284 was rejected by the Plaintiffs on January 28, 1997. A second alternative methodology proposal was also rejected by the Plaintiffs on July 11, 1997. Completion of the report is pending resolution of this issue between the parties.</p> <p>Exhibit L</p>
<p>24. Parties will further agree on a target goal for each health outcome indicator. # 294</p> <p>Defendants will report the best available information on each health indicator annually. # 295</p>	Beginning September 1, 1996, and annually thru 1999.	Pending - See item # 25

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Action	Deadline	Status
25. Defendants will present their proposed methodology for studies to evaluate the health of the EPSDT population. # 295	By April 1, 1996	<p>Plaintiffs received a copy of "The Texas Health Steps Program Outcomes Measures" chart on June 24, 1997. The chart indicates measures to be based on (A) data available at the Health Department (hearing loss, blood lead levels, prenatal care, low birth weight infants, asthma hospitalizations, and immunization); (B) through chart review at Texas Health Steps providers' offices (anemia, vision, speech and language impairments, mobility, growth and nutrition, and behavioral); through hospital chart review (asthma treatment). The chart, which outlines the approach that the Department will follow to measure the agreed upon outcome measures is near completion.</p> <p>Two Outcome Measures Reports were revised as of 05-15-97. The percent of teenagers beginning prenatal care in second and third trimesters in 1994 and 1995 was added to the original report on teenage prenatal care. Percent of children with blood lead levels greater than or equal to 15 ug/dL by race/ethnicity in 1996 was added to original report.</p> <p>The Outcome Measures Reports will be updated to include 1996 data on number of teenagers beginning prenatal care in all trimesters and percent of very low birth weight babies in August 1997.</p> <p>The report by Professor John Eltinge at Texas A&M University on chart review guidelines will be available in August 1997.</p>
26. Defendants will develop corrective action plans to address all matters within Defendants' control to improve results for each indicator (health) # 296.	By January 30, each year	Deferred pending completion of the data collection.